

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LAMAR JORDAN,

Plaintiff,

v.

E. ANUNCIACION, et al.,

Defendants.

Case No. 1:20-cv-00467-NONE-EPG (PC)

ORDER GRANTING PLAINTIFF'S  
MOTION TO COMPEL IN PART

(ECF. No. 47)

Lamar Jordan ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action.

On September 9, 2021, Plaintiff filed a motion to compel, arguing that defendants Norris, Anuncacion, and Napoles, failed to respond to Plaintiff's Interrogatories and Request for Production of Documents (Set One), and that defendants Anuncacion and Napoles failed to respond to Plaintiff's Request for Admissions (Set One). Defendants failed to respond to Plaintiff's motion. Accordingly, the Court ordered a response. (ECF No. 48)

On October 21, 2021, defendants Anunciacion and Napoles filed a statement of non-opposition.<sup>1</sup> (ECF No 49). According to defense counsel, Plaintiff served the discovery requests on July 13, 2021. (*Id.* at 2). On September 28, 2021, defense counsel attempted to meet and confer with Plaintiff by telephone, but they were unable to connect. (ECF No. 49-1,

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<sup>1</sup> Defendants' filing lists the wrong case number in the caption.

p. 1). On September 29, 2021, defense counsel sent Plaintiff a meet and confer letter, informing Plaintiff, among other things, that due to a clerical error defense counsel did not receive Plaintiff's discovery requests until August 27, 2021, and that defense counsel could serve responses no later than October 8, 2021. (Id. at 1-2). However, "[d]ue to his occupation with personal and family medical issues and recent assignment as lead counsel in the officer-involved shooting case," he was not able to provide Plaintiff with the discovery responses by October 8, 2021. (Id. at 2). As to the officer-involved shooting case, defense counsel stated that he was assigned as lead counsel on September 15, 2021, and that the case "required [his] full-time attention since August 23, 2021 due to multiple witness depositions and complex discovery issues. However, that matter is now stayed until January 12, 2022." (Id.). Defense counsel now believes that he "will be able to provide the responses no later than October 26, 2021." (Id.).

After review of Plaintiff's motion and Defendants' belated statement of non-opposition, the Court will grant the motion to compel in part.

As Norris is no longer a defendant in this action, Plaintiff's motion to compel will be denied to the extent that it is directed at Norris. Requests for production and interrogatories may only be directed at parties. Fed. R. Civ. P. 33(a), 34(a),

As to Plaintiff's discovery requests directed at defendants Anunciacion and Napoles, the Court will require these defendants to respond to the requests by October 26, 2021. If these defendants fail to respond by this date, any objections will be waived.

Additionally, Plaintiff will be given until November 23, 2021, to file a further motion to compel regarding defendant Anunciacion's and defendant Napoles' responses, or lack thereof, to his discovery requests.

Finally, given defendant Anunciacion's and defendant Napoles' failure to respond to Plaintiff's discovery requests and that the Court is granting Plaintiff's to compel as to these defendants, the Court will award Plaintiff expenses (such as copying costs) pursuant to Federal Rule of Civil Procedure 37(a)(5).

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion to compel is denied to the extent that it is directed at Norris;
2. Defendant Anunciacion has until October 26, 2021, to respond to Plaintiff's Interrogatories and Request for Production of Documents (Set One) and Plaintiff's Request for Admissions (Set One).
3. Defendant Napoles until October 26, 2021, to respond to Plaintiff's Interrogatories and Request for Production of Documents (Set One) and Plaintiff's Request for Admissions (Set One).
4. If defendant Anunciacion or defendant Napoles fails to respond to Plaintiff's discovery requests by October 26, 2021, any objections to the requests that they fail to respond to will be waived.
5. Plaintiff has until November 23, 2021, to file a further motion to compel regarding defendant Anunciacion's and defendant Napoles' responses, or lack thereof, to the discovery requests at issue.
6. Plaintiff has until November 23, 2021, to file a document containing a list of expenses he incurred in bringing his motion to compel, along with proof of those expenses.
7. Defendants Anunciacion and Napoles have until December 14, 2021, to either pay the expenses listed by Plaintiff and file a notice of compliance or to file an objection to those costs, if they believe the costs are unreasonable.

IT IS SO ORDERED.

Dated: **October 25, 2021**

/s/ Eric P. Grij  
UNITED STATES MAGISTRATE JUDGE